

21 C.J.S. Courts § 321

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Courts

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IX. Court Commissioners

C. Procedural Matters

§ 321. Judicial review or revision of court commissioner actions

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Although under some statutes commissioners have the power to make final determinations, a court commissioner's rulings, findings of facts, conclusions of law, and recommended disposition are ordinarily subject to revision by the court in which the commissioner serves.

Although under some statutes court commissioners have the power to make final determinations,¹ a commissioner's rulings, findings of facts, conclusions of law, and recommended disposition are ordinarily subject to revision by the court in which the commissioner serves.² In turn, the commissioner's decisions generally have no effect until they are adopted³ or confirmed⁴ by the judge after meaningful review.⁵ If so confirmed, the orders, judgments, and decrees of a commissioner have the same effect as if made by the judge on the date of their confirmation.⁶

Timely request for revision.

Pursuant to statute, a party requesting review of a commissioner's order by the court in which the commissioner serves may have only a specified number of days from the date of the commissioner's order to move for revision.⁷ If an aggrieved party fails to seek modification of a court commissioner's ruling within the time permitted, the commissioner's ruling will become a final decision of the court,⁸ and the party will then be required to seek relief by appealing the decision to an appellate court.⁹

Counsel's failure to seek timely revision is prejudicial per se and constitutes professionally unreasonable conduct sufficient to constitute ineffective assistance of counsel.¹⁰

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Footnotes

- 1 Ind.—*Scruggs v. State*, 637 N.E.2d 175 (Ind. Ct. App. 1994).
Wash.—*State v. Mershon*, 43 Wash. App. 132, 715 P.2d 1156 (Div. 2 1986).
- 2 Del.—*Franklin v. State*, 855 A.2d 274 (Del. 2004).
Mo.—*Clemans v. Mercantile Bank of St. Louis, N.A.*, 936 S.W.2d 889 (Mo. Ct. App. E.D. 1997).
- 3 Del.—*Franklin v. State*, 855 A.2d 274 (Del. 2004).
- 4 Mo.—*Clemans v. Mercantile Bank of St. Louis, N.A.*, 936 S.W.2d 889 (Mo. Ct. App. E.D. 1997).
- 5 Del.—*Franklin v. State*, 855 A.2d 274 (Del. 2004).
- 6 Mo.—*Clemans v. Mercantile Bank of St. Louis, N.A.*, 936 S.W.2d 889 (Mo. Ct. App. E.D. 1997).
- 7 Wash.—*Robertson v. Robertson*, 113 Wash. App. 711, 54 P.3d 708 (Div. 2 2002).
- 8 Wash.—*Hough v. Ballard*, 108 Wash. App. 272, 31 P.3d 6 (Div. 2 2001).
- 9 Wash.—*Robertson v. Robertson*, 113 Wash. App. 711, 54 P.3d 708 (Div. 2 2002).
As to appeal after revision or review, see § 323.
- 10 Wash.—*State v. Wicker*, 105 Wash. App. 428, 20 P.3d 1007 (Div. 1 2001).

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